

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA**

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In re: Equifax Inc. Customer Data  
Security Breach Litigation

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MDL No. 17-2800-TWT

CONSUMER ACTIONS

THEODORE H. FRANK and  
DAVID R. WATKINS,

Chief Judge Thomas W. Thrash, Jr.

Objectors.

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**FRANK AND WATKINS' MEMORANDUM OF LAW  
IN SUPPORT OF MOTION TO SUPPLEMENT THE RECORD**

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In support of Objectors Frank and Watkins' motion to supplement the record, they state the following:

1. On December 19, 2019, the Court held the final fairness hearing, approving the class action settlement and awarding attorneys' fees to class counsel. Minute Order, Dkt. 945.

2. At the December 19 fairness hearing, the Court "directed Mr. Canfield [class counsel] to prepare a written order, to be approved by Mr. Balser [Equifax's counsel], that summarizes the Court's findings. Mr. Canfield suggested submitting to the Court a proposed (1) consent order pertaining to the injunctive relief, (2) opinion containing the Court's ruling, and (3) final judgment, which the Court approved. All 3 documents to be submitted to the Court at the same time." Minute Order, Dkt. 945.

3. On January 13, 2010, the Court entered an Order Granting Final Approval of Settlement, Certifying Settlement Class, and Awarding Attorney's Fees, Expenses and Service Awards (Dkt. 956), Final Order and Judgment (Dkt. 957), and Consent Order (Dkt. 958).

4. The proposed orders that the Court directed plaintiffs' counsel to prepare (Dkt. 945) were not filed on the docket.

5. Appellate Rule 10(e) permits a district court to supplement the record "[i]f anything material to either party is omitted or misstated in the record by error or accident." Fed. R. App. Proc. 10.

6. Any differences between the proposed and final orders are material. *Cf. Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1373 (11th Cir. 1997); *see also Waters v. International Precious Metals Corp.*, 190 F.3d 1291, 1299 (11th Cir. 1999).

7. In addition, Local Civil Rule 5.1 requires all papers to be filed electronically, including any "proposed order." Local Civ. R. 5.1(A)(1) & App. H-A5.

8. The Court should therefore supplement the record to include the proposed orders submitted to the Court by plaintiffs' counsel. *See Williams v. Aircraft Workers Worldwide, Inc.*, 832 F. Supp. 2d 1347, 1349 (S.D. Ala. 2011) (granting motion to supplement record to include proposed order).

WHEREFORE, for the foregoing reasons, Objectors Frank and Watkins respectfully request that the record be supplemented to include plaintiffs' (1) proposed consent order pertaining to the injunctive relief, (2) proposed opinion containing the Court's fairness hearing rulings, and (3) proposed final judgment.

Dated: January 15, 2020.

/s/ Melissa A. Holyoak

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*Attorneys for Objectors David R. Watkins  
and Theodore H Frank*

### **CERTIFICATE OF FONT**

I hereby certify that this Motion and Memorandum in Support has been prepared in compliance with Local Rules 5.1 and 7.1.

Dated: January 15, 2020.

/s/ Melissa A. Holyoak

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed with this Court via its CM/ECF service, which will send notification of such filing to all counsel of record.

Dated: January 15, 2020.

/s/ Melissa A. Holyoak